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February 5, 2020

VIA ECF & FACSIMILE

Hon. Alvin K. Hellerstein
U.S. District Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007
fax: (212) 805-7942

Re: *In the Matter of the Application of Orly Genger*, No. 19-cv-9319 (AKH)
In the Matter of the Petition of Dalia Genger, No. 19-cv-9365 (AKH)

Dear Judge Hellerstein:

We represent the Orly Genger 1993 Trust, through Michael Oldner, Trustee, with respect to the above-referenced matters which were removed from Surrogate's Court in connection with Orly Genger's bankruptcy then pending in the Western District of Texas. We write, at the request of the Bankruptcy Trustee, to seek a transfer of the above-captioned matters to the Hon. James L. Garrity Jr. of the Bankruptcy Court for the Southern District of New York and a third 45-day adjournment for the Trustee's time to respond to our remand motions. (ECF No. 12 in 19-cv-9319; ECF No. 12 in 19-cv-9365.)

As detailed in the remand motions, the matters were removed by Ron Satija, the former Chapter 7 Trustee, when Ms. Genger's case was pending in the Western District of Texas. The removal papers were filed by the then-Trustee's counsel Kasowitz Benson Torres LLP. Before the transfer of the bankruptcy case to New York, Kasowitz Benson sought a 45-day extension of the time for the new Trustee to respond. We had no objection and this Court granted that request. (ECF Nos. 15, 16, 17 in 19-cv-9319; ECF Nos. 14, 15, 16 in 19-cv-9365.)

In December 2019, Ms. Genger's bankruptcy case arrived in the Southern District of New York and was assigned to Hon. James L. Garrity Jr. of the Bankruptcy Court for the Southern District of New York. Deborah J. Piazza of Tarter Krinsky & Drogin LLP was appointed as trustee. *See* 19-br-13985. Her counsel, Rocco A. Cavaliere, also of Tarter Krinsky & Drogin LLP, requested that we ask for an additional 45-day extension while the new Trustee and her counsel conducted their diligence of the bankruptcy case and the related actions.

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The parties have now agreed that these matters should be transferred to the bankruptcy court. In the Trustee's view, the transfer is appropriate under the Southern District's Standing Order of Reference Re: Title 11, dated February 1, 2012. The Orly Genger 1993 Trust disputes that any of the motions to remand and/or the underlying actions initially commenced in Surrogate's Court arise under Title 11 or arise in or are related to a case under Title 11, and reserves all rights concerning the arguments made in its motions for remand. The Trust's consent to Judge Garrity's consideration of the motions to remand should not be deemed a waiver of any arguments the Trust may have concerning the Bankruptcy Court's lack of jurisdiction over the underlying Surrogate's Court actions. However, with the Trustee's agreement that the transfer is without prejudice to any arguments raised or to be raised by the Trust in the remand motions or elsewhere, the Trust does not oppose a transfer of these matters to Judge Garrity to make an initial determination on the motions to remand.

Accordingly, we respectfully request that the Court direct the Clerk of the District Court to refer the actions to the Hon. James L. Garrity Jr. of the Bankruptcy Court for the Southern District of New York for further adjudication of the motions to remand. The Trustee also requests a third 45-day adjournment of her time to respond to our remand motions. We have no objection to this extension.

Respectfully submitted,

/s/ Adam Pollock

Adam Pollock

cc (via email):

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Counsel to the Bankruptcy Trustee

Andrew R. Kurland, Esq.
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*Counsel to the former Bankruptcy Trustee;
and former counsel or present counsel for other parties*

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